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HOUSE MEMORIAL 6

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Jim R. Trujillo

A MEMORIAL

REQUESTING THAT THE DEVELOPMENTAL DISABILITIES PLANNING COUNCIL
CONVENE A TASK FORCE TO REVIEW THE PROCESSES BY WHICH GUARDIANS
OF ADULTS ARE APPOINTED, TRAINED, SUPERVISED AND REVIEWED.

WHEREAS, the appointment of a guardian pursuant to the
Uniform Probate Code for an adult with diminished capacity
limits or eliminates the legal authority of the adult to make
decisions and control the adult's own life; and

WHEREAS, appointment of plenary guardians, with authority
to control all aspects of a ward's life, is still the typical
outcome of guardianship petitions to the district courts,
despite the preference in New Mexico law for limited
guardianships that would maximize the autonomy and authority of
adults with limited capacity; and

WHEREAS, recent studies have demonstrated that there is

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1 very little effective oversight of guardianship arrangements
2 once they have been established, including one study that
3 showed that only twelve percent of private guardians have filed
4 required annual reports; and

5 WHEREAS, there is no systematic process through which
6 existing guardianship orders and arrangements are reviewed to
7 determine whether such arrangements are still needed or
8 appropriate, even though some existing orders are twenty years
9 old or more and the ward's circumstances or capacity may have
10 changed;

11 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
12 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the
13 developmental disabilities planning council be directed to
14 convene a task force to review the processes by which guardians
15 of adults under the Uniform Probate Code are appointed,
16 trained, supervised and reviewed; and

17 BE IT FURTHER RESOLVED that the task force be composed of
18 persons who have sufficient authority to engage in policy
19 planning and implementation on behalf of the departments or
20 agencies they represent. The participants shall include
21 representatives of the developmental disabilities planning
22 council, the administrative office of the courts, the adult
23 protective services division of the aging and long-term
24 services department, the department of health, other
25 appropriate state agencies, New Mexico district court judges,

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1 the New Mexico guardianship association, the protection and
2 advocacy system, the senior citizens law office, individual and
3 corporate guardians, elders, individuals with disabilities,
4 advocates or other representatives of elders or adults with
5 disabilities and other interested individuals; and

6 BE IT FURTHER RESOLVED that representatives of state
7 agencies constitute less than fifty percent of the membership
8 of the task force; and

9 BE IT FURTHER RESOLVED that the task force consider
10 potential statutory or regulatory changes, training
11 requirements, identification and dissemination of best
12 practices and other recommendations that would improve New
13 Mexico's system for qualification, appointment and oversight of
14 guardians of adults with limited capacity; and

15 BE IT FURTHER RESOLVED that the task force present its
16 recommendations no later than October 31, 2008 to the interim
17 legislative health and human services committee; and

18 BE IT FURTHER RESOLVED that copies of this memorial be
19 transmitted to the developmental disabilities planning council.